



# UTAH VALLEY UNIVERSITY

## Policies and Procedures

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Proposed Policy Number and Title: 155 Sexual Harassment and Consensual Relationships and Grievance		
Existing Policy Number and Title: 155 Sexual Harassment and Consensual Relationships and Grievance		
<b>Approval Process*</b>		
<input type="checkbox"/> Regular	<input checked="" type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input type="checkbox"/> Revision	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Suspension	
	Anticipated Expiration Date:	

\*See UVU Policy #101 *Policy Governing Policies* for process details.

**Draft Number and Date:** Stage 2, August 27, 2015, Temporary Emergency Process/Suspension  
**President's Council Sponsor:** Linda Makin **Ext.** \_\_\_\_\_  
**Policy Steward:** \_\_\_\_\_ **Ext.** \_\_\_\_\_

### POLICY APPROVAL PROCESS DATES

#### **Policy Drafting and Revision**

Entrance Date: 08/27/2015

#### **University Entities Review**

Entrance Date: Not applicable

#### **University Community Review**

Entrance Date: Not applicable

Open Feedback: Not applicable

Close Feedback: Not applicable

#### **Board of Trustees Review**

Entrance Date: 08/27/2015

Approval Date: MM/DD/YYYY

#### **POST APPROVAL PROCESS**

Verify:

- ☐ Policy Number
- ☐ Section
- ☐ Title
- ☐ BOT approval
- ☐ Approval date
- ☐ Effective date
- ☐ Proper format of Policy Manual posting
- ☐ TOPS Pipeline and Archives update

**Policy Office personnel who verified and posted this policy to the University Policy Manual**

**Name:** \_\_\_\_\_

**Date posted and verified:** MM/DD/YYYY

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<b>POLICY TITLE</b>	Sexual Harassment and Consensual Relationships and Grievance	<b>Policy Number</b>	155
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	June 14, 1993
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	June 14, 1993
<b>Responsible Office</b>	Office of the Vice President of Planning, Budget, and Human Resources		

### 1.0 PURPOSE

### 2.0 REFERENCES

~~2.1 Civil Rights Act of 1964, Title VII~~

### 3.0 DEFINITIONS

~~3.1 Faculty or faculty member:~~ Those who teach at the institution, and include adjunct faculty with teaching responsibilities and other instructional personnel.

### 4.0 POLICY

~~4.1 This policy reflects the University's strong commitment to creating and maintaining an environment free from sexual harassment.~~

#### 4.2 Sexual Harassment

##### 4.2.1 Rationale

~~4.2.1.1 Sexual harassment is reprehensible and will not be tolerated by the University. It subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty, and staff. Relationships involving sexual harassment or discrimination have no place within the University. In both obvious and subtle ways, the very possibility of sexual harassment is destructive to individual students, faculty, staff, and the academic community as a whole. When through fear of reprisal a student, staff member, or faculty member submits, or is pressured to submit, to unwanted sexual attention, the University's ability to carry out its mission is undermined.~~



~~4.2.1.2 Sexual harassment is especially serious when it threatens relationships between teacher and student or supervisor and subordinate. In such situations, sexual harassment exploits unfairly the power inherent in a faculty member's or supervisor's position. Through grades, wage increases, promotion, and the like, a teacher or supervisor can have a decisive influence on a student's, staff member's, or faculty member's career at the University and beyond.~~

~~4.2.1.3 While sexual harassment most often takes place in situations of a power differential between the persons involved, the University also recognizes that sexual harassment may occur between persons of the same University status. The University will not tolerate behavior between or among members of the University community which creates an unacceptable working or educational environment.~~

#### ***4.2.2 Prohibited Acts***

~~4.2.2.1 No member of the University community shall engage in sexual harassment. For the purposes of this policy, sexual harassment is defined as unwelcome advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when:~~

- ~~1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;~~
- ~~2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or~~
- ~~3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or of creating an intimidating, hostile, or offensive environment for work or learning.~~

#### ***4.2.3 Examples of Sexual Harassment***

~~4.2.3.1 Sexual harassment encompasses any sexual attention that is unwanted. Examples of the verbal or physical conduct prohibited by the "Prohibited Acts" section above include, but are not limited to:~~

- ~~1) Physical assault;~~
- ~~2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;~~
- ~~3) Direct propositions, verbal and/or written, of a sexual nature;~~
- ~~4) Subtle pressure for sexual activity.~~



~~4.2.3.2 A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following:~~

- ~~1) Comments of a sexual nature; or~~
- ~~2) Sexually explicit statements, questions, jokes, or anecdotes.~~

~~4.2.3 A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct is directed that includes one or more of the following:~~

- ~~1) Unnecessary touching, patting, hugging, or brushing against a person's body;~~
- ~~2) Remarks of a sexual nature about a person's clothing or body; or~~
- ~~3) Remarks about sexual activity or speculations about previous sexual experience.~~

#### ***4.2.4 Isolated and Inadvertent Offenses***

~~4.2.4.1 Members of the University community who, without establishing a pattern of doing so, engage in isolated conduct of the kind described above in section 4.2.3, "Examples of Sexual Harassment," or who exhibit a pattern of engaging in such conduct may fail to realize that their actions discomfort or humiliate and demonstrate insensitivity that necessitates remedial measures. When university administrators become aware that such activities are occurring in their areas, they shall direct that those engaged in such conduct undertake an educational program designed to help them understand the harm that they are doing.~~

~~4.2.4.2 If, after participating in the educational program or failing to participate after being directed to do so, a person continues to engage in the conduct previously described, he or she will be deemed to have engaged in a pattern of conduct intended to discomfort or humiliate the one at whom the actions or statements are directed.~~

### **4.3 Consensual Relationships**

#### ***4.3.1 Definition***

~~4.3.1.1 The terms faculty or faculty member can mean all those who teach at the institution, and include adjunct faculty with teaching responsibilities and other instructional personnel.~~

#### ***4.3.2 Rationale***

~~4.3.2.1 The University's educational mission is promoted by professionalism in faculty/student relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions~~



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of faculty members and students that harm this atmosphere undermine professionalism and hinder fulfillment of the University's educational mission. Trust and respect are diminished when those in positions of authority abuse, or appear to abuse, their power. Those who abuse, or appear to abuse, their power in such a context violate their duty to the University community.

**4.3.2.2** Faculty members exercise power over students, whether in giving them praise or criticism, evaluating them, making recommendations for their further studies or their future employment, or conferring any other benefits on them. Amorous relationships between faculty members and students are wrong when the faculty member has professional responsibility for the student. Such situations greatly increase the chances that the faculty member will abuse his or her power and sexually exploit the student. Voluntary consent by the student in such a relationship is suspect, given the fundamentally asymmetric nature of the relationship. Moreover, other students and faculty may be affected by such unprofessional behavior because it places the faculty member in a position to favor or advance one student's interest at the expense of others, and implicitly makes obtaining benefits contingent on amorous or sexual favors. Therefore, the University will view it as unethical if faculty members engage in amorous relations with students enrolled in their classes or subject to their supervision, even when both parties appear to have consented to the relationship.

#### **4.3.3 Consensual Relationships in the Instructional Context**

**4.3.3.1** No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose academic work (including work as a teaching assistant) is being supervised by the faculty member.

#### **4.3.4 Consensual Relationships Outside the Instructional Context**

**4.3.4.1** Amorous relationships between faculty members and students occurring outside the instructional context may lead to difficulties. Particularly when the faculty member and student are in the same academic unit or in units that are academically allied, relationships that the parties view as consensual may appear to others to be exploitative. Further, in such situations (and others that cannot be anticipated), the faculty member may face serious conflicts of interest and should be careful to distance himself or herself from any decisions that may reward or penalize the student involved. A faculty member who fails to withdraw from participation in activities or decisions that may reward or penalize a student with whom the faculty member has or has had an amorous relationship will be deemed to have violated his or her ethical obligation to the student, to other students, to colleagues, and to the University.

#### **4.3.5 Filing of Complaint**

**4.2.5.1** A complaint alleging violations of section 4.3, "Consensual Relationships," may be filed by any person or the process may be initiated by the Equity Officer.



## **4.4 Procedures**

### **4.4.1 Informal Complaint**

~~4.4.1.1 At the complainant's option, a complaint that one or more provisions of this policy have been violated may be brought to any appropriate member of the University community.~~

~~4.4.1.2 The person to whom the complaint is brought will inform the complainant as to the options available under this policy and, at the complainant's request,~~

- ~~1) May help the complainant resolve the complaint informally and/or~~
- ~~2) Help the complainant draft a formal complaint if the complainant decides to follow that route.~~

~~4.4.1.3 The person to whom the informal complaint is brought shall not inform the accused of the complainant's action without the consent of the complainant.~~

### **4.4.2 Investigation Prior to Formal Action**

~~4.4.2.1 A complainant wishing to make a formal complaint and have it pursued should file it with the Equity Officer, who will consult with the appropriate administrative officer to determine the method by which the investigation will be conducted.~~

~~4.4.2.2 The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. In conducting the investigation, the appropriate administrator may interview the complainant, the accused, and other persons believed to have pertinent factual knowledge. At all times, the administrator conducting the investigation will take steps to ensure confidentiality.~~

~~4.4.2.3 The investigation will afford the accused a full opportunity to respond to the allegations.~~

~~4.4.2.4 Possible outcomes of the investigation are:~~

- ~~1) A judgment that the allegations are not warranted;~~
- ~~2) A negotiated settlement of the complaint; or~~
- ~~3) Institution of formal action described in succeeding sections of this policy.~~

### **4.4.3 Process of Taking Formal Action**

~~4.4.3.1 If, after reviewing the report of the investigator, the appropriate administrative official, as described previously in the section, concludes that there is a reasonable basis for believing that~~

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~~the alleged violation of this policy has occurred and a negotiated settlement cannot be reached, formal action will be taken.~~

#### ~~4.4.3.2 The decision to take formal action in cases which:~~

- ~~1) A faculty member, adjunct faculty, or other instructional personnel has been charged, will be made by the Senior Vice President for Academic Affairs, or that person's designee;~~
- ~~2) A staff member has been charged, will be made by the vice president responsible for the department employing the person charged, or that person's designee.~~

#### **4.4.4 Formal Action**

~~4.4.4.1 Except as specifically modified by other provisions of this policy, formal action involving allegations of:~~

- ~~1) Violations of this policy by faculty members will be governed by university Grievance Procedures. Upon motion from one of the parties, made before the start of the hearing process, the hearing panel shall close all or part of any hearing held under this policy. Upon motion from one of the parties after the hearing has started or from some other interested party, the hearing panel may close all or part of a hearing held under this procedure.~~
- ~~2) Violations of this policy by staff members will be taken by the vice president (or designee) responsible for the department employing the accused staff member. Appeals of any formal disciplinary action against a staff member are governed by college grievance procedures.~~

#### ***4.4.5 Protection of Complainant and Others***

~~4.4.5.1 Investigations of complaints will be initiated only with the complainant's consent. The complainant will be informed fully of steps taken during the investigation.~~

~~4.4.5.2 All responsible action will be taken to assure that the complainant and those testifying on behalf of the complainant or supporting the complainant in other ways will suffer no retaliation as the result of his or her activities in regard to the process. Steps to avoid retaliation might include:~~

- ~~1) Lateral transfers to one or more of the parties in an employment setting, and a comparable move if a classroom setting is involved, and~~
- ~~2) Arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the accused.~~



~~4.4.5.3 In extraordinary circumstances, after consulting the Faculty Senate President, the Senior Vice President for Academic Affairs may, at any time during or after an investigation of a sexual harassment/consensual relationship complaint, suspend from teaching responsibilities any faculty member or teaching assistant accused of sexual harassment if, after reviewing the allegations and interviewing the accused, the complainant, and, if it seems appropriate, some others enrolled in the class, the Senior Vice President finds that it is reasonably certain that,~~

- ~~1) The alleged sexual harassment has occurred, and~~
- ~~2) Serious and immediate harm will ensue if the person continues to teach the class.~~

#### ***4.4.6 Protection of the Accused***

~~4.4.6.1 At the time the investigation commences, the accused will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations.~~

~~4.4.6.2 In the event that the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the accused if it has been damaged by the proceeding.~~

~~4.4.6.3 A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to expulsion and/or termination by the University.~~

#### ***4.4.7 Protecting Both Parties***

~~4.4.7.1 To the extent possible, the proceedings will be conducted in a way calculated to protect the confidentiality interests of both parties.~~

~~4.4.7.2 After the investigation, the parties will be informed of the facts developed in the course of the investigation.~~

~~4.4.7.3 The parties will be informed promptly about the outcome of the proceedings.~~

### **4.5 Educational Programs**

#### **4.5.1 Education as a Key Element of University Policy**

~~4.5.1.1 Educational efforts are essential to the establishment of a campus milieu that is as free as possible of sexual harassment and in which high standards of conduct in consensual relationships are observed. There are at least four goals to be achieved through education:~~

- ~~1) Ensuring that all victims (and potential victims) are aware of their rights;~~
- ~~2) Notifying individuals of conduct that is proscribed;~~





3) Informing administrators about the proper way to address complaints of violations of this policy; and

4) Helping educate the insensitive about the problems this policy addresses.

#### ***4.5.2 Preparation and Dissemination of Information***

**4.5.2.1** The Equity Officer is charged with distributing copies of this policy to all current members of the University community and to all those who join the community in the future. An annual letter from the Equity Officer will be sent to all faculty and staff to remind them of the contents of UVU Policy 301 *Equal Employment, Education Opportunity, and Affirmative Action*, including the provisions added to it by this policy. A copy of UVU Policy 301 (including this policy) will be included in student orientation materials. In addition, copies of this policy will be made continually available at appropriate campus centers and offices.

**4.5.2.2** The Equity Officer will develop a series of training sessions for persons who are likely to receive complaints that this policy has been violated, including, but not being limited to, such persons as department heads, deans, directors, academic advisors, coordinators, and supervisors. Academic departments shall provide training sessions for adjunct faculty and other instructional personnel.

**4.5.2.3** The Equity Officer will develop a course designed to inform those who inadvertently violate this policy of the problems that they create by their insensitive conduct. The course shall be mandated for those in violation of this policy and may be an element in the settlement of a complaint. It also may be mandated for persons found to have violated this policy. (The following document outlines the detailed procedures to be followed, and is published by Human Resources for the processing of sexual harassment complaints.)

#### **4.6 Sexual Harassment Complaint Procedures**

##### ***4.6.1 Preamble***

**4.6.1.1** UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*, enacted in 1993, reflects the University's strong commitment to creating and maintaining an environment free of sexual harassment. The presence of sexual harassment in this community subverts the mission of the University and will not be tolerated. In furtherance of this commitment, the institution recognizes the need to codify procedures governing sexual harassment complaints filed under the policy. The distribution of such procedures will ensure that those persons involved in sexual harassment complaints know what to expect from the complaint process. The University is particularly concerned that potential complainants know that they have recourse in this community. To these ends, the Department of Personnel Services publishes this set of university-wide procedural guidelines for the processing of sexual

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~~harassment complaints so that the person handling such complaints at the administrative level, as well as the parties to the complaint, are aware of the process. These procedures are based upon UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*. We believe that publication and implementation of these procedures will go a long way toward increasing awareness of sexual harassment and eradicating it.~~

#### **~~4.7 Utah Valley University Policy on Sexual Harassment and Consensual Relationships~~**

~~4.7.1 Utah Valley University believes that sexual harassment is reprehensible and will not be tolerated. Furthermore, sexual harassment is a form of sex discrimination under Title VII of the *Civil Rights Act of 1964*, and as such, is illegal under federal law.~~

~~4.7.2 The University has a policy prohibiting sexual harassment and vigorously enforces it. Persons who are accused of sexual harassment should thoroughly read and understand the policy. UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* is set forth in the University's Employee Handbook. Copies of the policy, as well as copies of these procedures, are available upon request from Human Resources.~~

#### **~~4.8 Prohibited Conduct~~**

##### **~~4.8.1 Sexual Harassment Defined~~**

~~4.8.1.1 The University's policy defines sexual harassment as unwelcome advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when:~~

- ~~1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;~~
- ~~2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or~~
- ~~3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive environment for work or learning.~~

##### **~~4.8.2 Examples of Sexual Harassment~~**

~~4.8.2.1 Sexual harassment may take many forms and includes any sexual attention that is unwanted. The following types of conduct are given as examples of sexual harassment in the policy:~~

- ~~1) Physical assault;~~



~~2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation.~~

~~3) Direct propositions, verbal and/or written, of a sexual nature;~~

~~4) Subtle pressure for sexual activity;~~

**4.8.2.2** A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following:

~~1) Comments of a sexual nature; or~~

~~2) Sexually explicit statements, questions, jokes, or anecdotes.~~

**4.8.2.3** A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following:

~~1) Unnecessary touching, patting, hugging, or brushing against a person's body;~~

~~2) Remarks of a sexual nature about person's clothing or body; or~~

~~3) Remarks about sexual activity or speculations about previous sexual experience.~~

#### **4.9 Parties**

**4.9.1** Under UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*, any student, staff member, or faculty member may bring a sexual harassment complaint against any other member of the institution community who is believed to have violated the policy.

#### **4.10 Persons Authorized to Receive Complaints**

**4.10.1** UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* provides that a complaint alleging a violation of the policy may be brought to any appropriate member of the University community, including:

~~1) Any academic or administrative officer of the University;~~

~~2) Any collegiate dean, director, coordinator, supervisor, department head, or advisor;~~

~~3) Department of Personnel Services.~~



~~4.10.2 All persons authorized to receive complaints shall participate in training related to the procedures to be used for handling sexual harassment complaints. This training is provided by Human Resources.~~

#### **4.11 Available Options**

##### **4.11.1 Informal Resolution of the Complaint**

- ~~1) By the complainant directly with the accused party;~~
- ~~2) With the assistance of the person to whom the complaint was initially brought; or~~
- ~~3) With the assistance of any appropriate member of the institution community as set forth above to whom the complainant wishes the complaint to be referred, including the Equity Officer of the University.~~

##### **4.11.2 Filing a Formal Complaint with the Equity Officer**

~~4.11.2.1 The complainant should also be informed that a decision to proceed informally at this point does not preclude the filing of a formal complaint at some later point prior to the completion of the informal complaint process and that the filing of an informal complaint is not a prerequisite to a formal complaint.~~

#### **4.12 Procedures for Initial Intake of Complaints**

##### ***4.12.1 Discussion of Relevant Considerations***

~~4.12.1.1 In addition to outlining for the complainant the options available under the sexual harassment policy, the person to whom the complaint is initially brought should also discuss with the complainant other relevant considerations such as:~~

- ~~1) The details of the complaint process;~~
- ~~2) The issues involved in the complaint;~~
- ~~3) Possible resolutions;~~
- ~~4) Provisions in the policy for protection of the complainant's interests (e.g., confidentiality; need for truthfulness by both parties; keeping complainant fully informed of steps taken during the process; protection of complainant and witnesses against retaliatory action; accused party cannot be informed of the filing of an informal complaint without the consent of complainant); and~~



~~5) Provisions in the policy for protection of the interests of the accused (e.g., confidentiality; need for truthfulness by both parties; right to be notified of existence of any formal complaint; opportunity to respond to the complainant's allegations). The person to whom the complaint is brought should provide the complaining party with a copy of UVU Policy 155 Sexual Harassment and Consensual Relationships and Grievance" and these procedures.~~

#### **4.12.2 Determination as to Further Action**

~~4.12.2.1 Once all of the above information has been discussed with the complainant, the complainant may then determine whether to pursue the complaint and, if so, by what process.~~

#### **4.13 Informal Complaints**

##### **4.13.1 Referral**

~~4.13.1.1 In the event the complainant wishes to pursue informal resolution of the complaint, he or she may do so either with the person to whom the complaint was initially brought or with another person authorized under the policy to receive such complaints and to whom the complainant wishes the complaint to be referred. The person selected by the complainant to process the complaint will follow the procedures set forth in the following subsection relating to processing informal complaints.~~

~~4.13.1.2 Similarly, if the complainant elects to file a formal complaint with the Equity Officer, or if the complainant wishes to convert an existing informal complaint to a formal complaint at any point prior to completion of the informal complaint process, the person to whom the complaint was initially brought will refer the complainant to Human Resources for that purpose. Any assistance the complainant may need in filing the complaint or in contacting Human Resources will be provided by the person making the referral.~~

##### **4.13.2 Procedures for Informal Complaints**

~~4.13.2.1 If the complainant wishes to pursue informal resolution of the complaint, the following procedures are applicable:~~

~~1) Notice of Complaint to Human Resources: Within seven (7) working days of receiving an informal complaint, the person pursuing the complaint with the complainant will notify the Equity Officer/Human Resources in writing of the existence of the complaint and will provide a summary of the allegations. Situations in which the complainant has requested his or her name not be disclosed or no action be taken, and those in which the complainant has not consented to informing the accused party of the action, should be reported without disclosing information which would identify the parties. The information reported will be treated confidentially by Human Resources. This information is required to be reported for data collection purposes and to assure compliance with the sexual harassment policy and with applicable federal law on sexual~~

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harassment. Additionally, Human Resources will use this information to monitor repeated complaints within the same department/unit or against the same individual, where appropriately identified, to assure that such claims are adequately handled.

*2) Notice to the Accused:* In the context of an informal complaint, the sexual harassment policy provides that the accused party will not be informed of the complainant's action without the consent of the complainant. For purposes of documentation, this consent should be provided in writing. The complainant should be informed that no disciplinary action can be taken against the accused on the basis of an informal complaint of which the accused party has not been made aware.

*3) Inquiry/Investigation into Circumstances of Complaint:* The person handling the informal complaint should follow the procedures for investigation of formal complaints set forth in section 4.14.2.4 of this set of procedures.

*4) Time Period for Investigating Complaint:* Informal complaints should be concluded within fifteen (15) days of their inception. Where this is not reasonably possible, the person processing the complaint should notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.

*5) Notice of Conclusion of Investigation:* Within seven (7) working days of concluding the investigation of an informal complaint, the person handling the complaint will notify the Human Resources in writing that the complaint has been concluded and the resulting outcome. All papers, notes, etc. shall be forwarded to the Equity Officer in a sealed envelope for classification and storage.

*6) Possible Actions upon Conclusion of Informal Investigation:*

**a) Resolution of Complaint:** The person handling the complaint will attempt to resolve it to the satisfaction of the parties involved.

**b) Where Resolution of Complaint is Not Possible:** Where the person handling the complaint is unable to resolve it, the complainant should be advised of the option of filing a formal complaint based on the same occurrence with the Equity Officer and the existence of options outside the University that may be pursued, i.e., filing with the Federal Equal Employment Opportunity Commission, the Federal Department of Education (Office of Civil Rights), etc.

### 4.14 Formal Complaints

#### 4.14.1 Referral to Human Resources

**4.14.1.1** Either when the complainant elects to file a formal complaint, or at any point prior to completion of the informal complaint process when a complainant elects to convert an existing

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informal complaint to a formal complaint, the complainant may invoke the procedures used in the formal context. If this occurs, the person handling the complaint should refer the complainant to the Equity Officer for filing of the formal complaint. Any assistance that the complainant may need in contacting the Equity Officer or in filing the complaint should be provided by the person making the referral.

#### **4.14.2 Procedures For Formal Complaints**

**4.14.2.1 Filing with the Equity Officer:** The sexual harassment policy provides that formal complaints of sexual harassment will be filed in writing with the Equity Officer.

**4.14.2.2 Determination of Method of Formal Investigation:** The Equity Officer will then consult with the appropriate administrative officer to determine the method by which the formal investigation will be conducted. The Equity Officer will be responsible for the investigation with the assistance of the department or office involved and will keep the administrative officer informed as to its progress.

**4.14.2.3 Notice to the Accused:** At the commencement of the investigation of a formal complaint, the accused party will be informed of the identity of the complainant, of the allegations of the complaint, and of the facts surrounding the allegations of sexual harassment, as required by section 4.6 of the policy.

#### **4.14.2.4 Investigation of Formal Complaint**

**4.14.2.4.1 Purpose of Investigation:** The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation(s) of the sexual harassment policy has/have occurred.

**4.14.2.4.2 Authorization to Investigate:** Because the information provided by the complainant is confidential, it is necessary to obtain the complainant's written authorization to discuss the information with others during the course of the investigation. The written documentation of the complainant's consent to investigate should specify that the investigator is authorized to discuss the information provided with other persons having pertinent factual knowledge of the circumstances of the complaint and authorized to collect and examine any and all records and other documentation relative to the complaint.

**4.14.2.4.3 Persons to Be Interviewed:** The persons conducting the investigation should interview the complainant, the accused, and any other persons believed to have pertinent factual knowledge of the allegations. UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* specifically provides that the accused be afforded a full opportunity to respond to the allegations. Throughout the investigation, and at all other times, the person conducting the investigation will take steps to preserve the confidentiality of all persons involved.



**4.14.2.4.4 Matters to be investigated include:**

- 1) Whether the specific conduct constitutes sexual harassment, including the type(s) of conduct; frequency of occurrence; date(s) on which or time period over which the conduct has occurred; location of alleged occurrence(s); and all factual circumstances upon which the complaint is based.
- 2) The specific relationship of the accused party to the complainant (e.g., professor student, supervisor employee, etc.).
- 3) The effect of the accused party's conduct on the complainant, including any consequences that may be attributed to the conduct.
- 4) Whether the accused party is aware of the complainant's concerns.
- 5) Whether the department head or supervisor is aware of the complainant's concerns.
- 6) The names, addresses, and telephone numbers of all persons believed to have pertinent factual knowledge of the circumstances surrounding the complaint.
- 7) Whether any prior steps were taken to resolve the complaint.
- 8) Whether there are any additional resources that may be helpful to resolve the complaint.
- 9) Whether the complainant is receiving appropriate emotional support and/or services.

***4.14.3 Possible Outcomes of Investigation***

**4.14.3.1** The possible outcomes of the investigation are:

- 1) A finding that there is a reasonable basis for believing that the alleged violation occurred; or
- 2) A finding that there is no reasonable basis for believing that the alleged violation occurred; or
- 3) A negotiated settlement of the complaint.

**4.14.3.2** Where the Equity Officer has determined that the allegations are founded, there are two further possibilities:

- 1) A negotiated settlement of the complaint or





2) Where a negotiated settlement is not possible, institution of formal action/sanctions as described in section 4.15.7 below.

~~4.14.4 Time Period for Investigating Complaint:~~ Investigations of formal complaints should be concluded within forty five (45) days of their inception. Where it is not reasonably possible to conclude the complaint within that amount of time, the Equity Officer will notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.

~~4.14.5 Written Report of Findings:~~ Upon conclusion of the investigation of a formal complaint, the Equity Officer will prepare a written summary of the findings. This report will then be provided to the appropriate administrative official as described in section 4.15.7.

~~4.15.6 Notice to Parties:~~ At the conclusion of the investigation, the Equity Officer shall immediately inform both the complainant and the accused party of the outcome and of the facts developed relevant to the complaint. In the event that the investigation has revealed no reasonable basis for believing sexual harassment has occurred under the policy, the investigator will also advise the complainant of the existence of options outside the University that may be pursued as discussed in section 4.13 of these procedures.

#### **4.15.7 Formal Sanctions**

~~4.15.7.1 Decision to Impose Sanctions:~~ If after a reviewing of the report from Human Resources, the appropriate administrative official (as described below) concludes that there is a reasonable basis for believing that the alleged violation of the policy has occurred, and if a negotiated settlement of the complaint has not been achieved, formal sanctions will be imposed.

~~4.15.7.2 Persons Responsible for Decision:~~ The decision to impose formal sanctions will be made by one of the following persons:

- ~~1) In cases involving a faculty member (contract and/or adjunct) or other instructional personnel as the charged party, by the Senior Vice President for Academic Affairs or that person's designee; and~~
- ~~2) In cases involving a staff person as the charged party, by the vice president responsible for the department employing the charged party or by that person's designee; and~~
- ~~3) In cases involving a student, by the Vice President of Student Affairs or that person's designee.~~

~~4.15.7.3 Sanctions:~~ Where an allegation of sexual harassment is founded, appropriate corrective measures may range from verbal reprimand up to and including separation of the offending party from the University in accordance with established university procedures.



**4.15.7.4 Governing Provisions:** ~~Violations of UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance* are governed by the grievance procedures of the University's policy and procedures.~~

**4.15.8 Final Report to the Equity Officer:** ~~Within seven (7) work days of the conclusion of any formal action, a written report summarizing any such action taken and the outcome of any appeal will be submitted to the Equity Officer by the administrative official responsible for the decision on formal action. This written report is used by the Equity Officer for data collection and compliance purposes only.~~

**4.15.9 Complainant's Options upon Unfavorable Resolution:** ~~Where the complainant is not satisfied with the outcome of the formal action process, the administrative official responsible for the decision on any formal action taken should inform the complainant of the existence of options outside the University that may be pursued as discussed in section 4.13 of these procedures.~~

#### **4.16 Presence of Support Persons**

**4.16.1** ~~If the complainant so desires, the complainant may be accompanied at the initial interview (and subsequently as appropriate) by a friend, family member, or other individual of the complainant's choice whose presence is necessary to provide emotional support and/or clarification of the facts related to the complaint.~~

#### **4.17 Rights of the Accused**

**4.17.1** ~~At the commencement of the investigation of a formal complaint, the accused will be informed of the identity of the complainant, the allegations of the complaint, and the facts surrounding the allegations. The accused will be given an opportunity to respond fully to the allegations and will be notified of the outcome of the investigation.~~

#### **4.18 Confidentiality**

**4.18.1** ~~Human Resources treats as confidential all information received in connection with the filing, investigation, and resolution of complaints. It is anticipated and expected that the parties to a particular complaint will observe the same standard of strict confidentiality. It should be emphasized that this practice is in the best interests of all parties to the complaint. Failure to respect confidentiality may be regarded as retaliation.~~

### **5.0 PROCEDURES**



# UTAH VALLEY UNIVERSITY

## Policies and Procedures

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POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

